IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1565 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/08/2004 in WP NO : 22277 OF 2002 on the file of the High Court.)

Between:

Mysa Lingaiah, S/o. Agaiah,
R/o.H.No. 13-6-138, Matwada, Warangal District. Presently living in Anuraga Human Services Old Age Home,
Tolichowk, Hyderabad.

..... APPELLANT

AND

1 The Union of India, Rep. by its Special Secretary,
Ministry of Home Affairs, Loknaik Bhavan, Khan Market, New Delhi.
2 The District Collector, Warangal District, Warangal.

.....RESPONDENTS

Counsel for the Appellant : MR.N.M.KRISHNAIAH

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the respondent No.2: G.P. for Home.

The Court made the following :

ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

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1 . Appellant's writ petition was dismissed wherein petitioner – appellant claimed that direction be issued to the respondents to sanction Freedom Fighters Pension under Swathantra Sainik Sammon Pension 1980.

2. Appellant's case was that he participated in the freedom movement during Nizam's period and suffered imprisonment on 31.03.1357 Fasli and was released on 19.04.1357 Fasli as per the orders of Home Secretary, Hyderabad State. To this effect, reliance was placed on a certificate issued by Superintendent of Central Jail, Warangal. On this score, the claim was negatived saying that period of imprisonment was less than six months and 20 days imprisonment was not sufficient to consider the case of the appellant under Clause (a) of para 4 of Samman Pension Scheme.

3. The ground on which freedom fighter's pension sought was that appellant had to go underground because of his political activities in the State of Hyderabad and that he remained underground for a period of more than one year and was released only after Nizam's rule came to an end in Hyderabad in the year 1948. Petitioner's grievance is that though the recommendations were made by the State Government, but were not received by the Central Government.

4. We have heard counsel for the parties. There is no doubt that when such a claim for sanction of freedom fighter's petition is made, the matter has to be examined and appropriate recommendations are to be made by the State

government and forward it to the Central Government for being considered in accordance with the provisions of the pension scheme. Petitioner is placing reliance upon certificates issued by two other freedom fighters as also proceedings in C.No.311/1/1356 Fasli in support of his submission that petitioner was underground and was released in 1948 and took part in freedom movement. As a matter of fact, on this aspect there has been no verification made by the Statement Government so as to enable the State Government to make appropriate recommendation, if any, to the Central Government. Accordingly we allow the appeal and set aside the impugned order with direction to the State Government to examine the case of the petitioner by treating the writ petition itself as a representation for grant of pension and for appropriate verification, if any. In case any other requirement is to be complied with by the petitioner – appellant, opportunity will be allowed to the petitioner to submit further documents, if any, and on getting appropriate verification, matter be examined for making recommendation, if any, to the Central Government. This entire exercise will have to be done in four months from the date of receipt of a copy of this judgment and in case recommendation is made to the Central Government, the Central Government, within a period of two months from the date of receipt of the recommendation from the State Government, will proceed to pass appropriate orders thereupon in accordance with the provisions of the Scheme. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 26.10.2004.

VRK.

To

1. The Special Secretary, Ministry of Home Affairs,
Union of India, Loknaik Bhavan, Khan
Market, New Delhi.
2. The District Collector, Warangal District, Warangal.

3. Two CCs to G.P. for Home, High Court Buildings, Hyderabad.

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1565 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 26.10.2004.